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EX PARTE OR LATE FILED

U S WEST

G. Michael Crumling  
Executive Director-  
Federal Regulatory

January 20, 1998

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**EX PARTE**

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
1919 M Street, NW - Room 222  
Washington, DC 20554

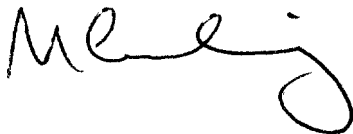
RE: CC Docket No. 97-172 and File Nos. E-97-19 and E-97-40

Dear Ms. Salas:

On Tuesday, January 20, 1998, Richard Karre, U S WEST; John Harwood II and Samin Jain of Wilmer, Cutler & Pickering and the undersigned met with Michelle Carey and Audrey Wright of the Common Carrier Bureau and Paula Silberthau of the Office of General Counsel to discuss the provision of National Directory Assistance. The details of the discussion are provided in the attached handouts.

In accordance with 47 C.F.R. § 1.1206(a)(1) of the Commission's rules, the original of this letter and one copy are being filed with your office. Acknowledgment and date of receipt are requested. A duplicate of this letter is included for this purpose.

Sincerely,



Attachments

cc: Michelle Carey  
Audrey Wright  
Paula Silberthau

No. of Copies rec'd 0+1  
LIST A B C D E

## **U S WEST'S NATIONAL DIRECTORY ASSISTANCE SERVICE**

### **Introduction**

The Commission should grant U S WEST's petition for a declaratory ruling and reject MCI's Complaint. As a preliminary matter, the Wichita Falls decision holding sections 271-275 unconstitutional removes section 271 as an obstacle to U S WEST's provision of that service, and U S WEST is free to continue providing the service. But the Commission need not wait for any further developments in that case before granting the relief U S WEST requests -- even absent the Wichita Falls decision, U S WEST's provision of National Directory Assistance would not be precluded by section 271 for a number of reasons.

### **I. As U S WEST Has Previously Shown, Its Provision of National Directory Assistance Is Lawful.**

- A. U S WEST is authorized to provide directory assistance as part of its local exchange and exchange access facilities and services.
  - 1. The Commission has long recognized that directory assistance is a function that is connected to the provision of local exchange service, because the purpose of obtaining a number from directory assistance is to allow the requesting party to use the carrier's services to place a call to that number. Local directory assistance and National Directory Assistance are indistinguishable in this regard: A customer who obtains a local number uses the carrier's local exchange service to place a call to that number, and a customer who obtains a number in another LATA uses U S WEST's exchange access service to place a call to that number.
  - 2. The Act does not proscribe BOCs from using any particular type of facilities -- including those that are interLATA -- to provide exchange and exchange services.
- B. Section 271 does not prohibit U S WEST from providing National Directory Assistance.
  - 1. National Directory Assistance is not an interLATA service for purposes of the Act. An "interLATA" service involves the interLATA transmission of information. Providing an out-of-LATA number is not interLATA transmission.
  - 2. National Directory Assistance provided by means of interLATA facilities is not an "interLATA service" for purposes of the Act -- the user does not specify a particular destination point outside of the originating LATA.

3. Even if use of interLATA official services to provide National Directory Assistance were an interLATA service, U S WEST could still provide it under section 271.
  - a. National Directory Assistance would be an authorized service under section 271(f) because it does not differ in any relevant way from local directory assistance, which the Decree Court authorized as an official service.
  - b. U S WEST could also provide National Directory Assistance under section 271(g)(4), because it is a service involving the storage and retrieval of information from computer databases. Moreover, U S WEST would not be required to use a separate affiliate: (i) Section 272(a)(2) requires a separate affiliate only for information services, not all services provided pursuant to section 271(g)(4); and (ii) National Directory Assistance is not an information service because it falls within the exception for services used for “the management, control, or operation of a telecommunications system or the management of a telecommunications service.”

## **II. Prohibiting U S WEST from Providing National Directory Assistance Would Raise Serious First Amendment Issues.**

- A. The only difference between U S WEST’s local directory assistance and national directory assistance services is the content of the operator’s speech. Thus, permitting one but not the other would amount to a content-based restriction on speech.
- B. National directory assistance information is not commercial speech because it does not propose a commercial transaction. See Board of Trustees of State University of N.Y. v Fox. Although the provision of national directory information is part of a commercial transaction, that does not make such information commercial speech any more than the sale of a newspaper renders the paper’s articles commercial speech. Accordingly, the Commission’s content-based restriction of this speech would be presumptively invalid.
- C. Even if national directory assistance information were commercial speech, any restriction would fail the Supreme Court’s test for regulation of commercial speech set out in Central Hudson. In particular, such a ban would not “directly and materially” advance any substantial government interest.

1. A ban on the provision of an auxiliary function such as National Directory Assistance would not “directly” or “materially” advance any government interest in increasing competition in the local telephone market. Section 251 sets forth the direct steps an incumbent LEC is legally required to take to open competition in its local market. Excluding U S WEST from providing National Directory Assistance would not directly pursue that goal. And, in view of U S WEST’s duties under section 251 (and the concomitant threat of legal sanction if they are not fulfilled), the “carrot” of being able to provide National Directory Assistance would not materially affect U S WEST’s actions in regard to opening up the local service markets.
  2. Similarly, the section 251 duty not to discriminate and related statutory obligations directly advance any governmental interest in preventing any hypothetical leveraging of market power in the local market into market power in interLATA services, while a ban on National Directory Assistance would not materially or directly advance that goal.
- D. At the very least, a ban on the provision of National Directory Assistance would raise serious constitutional concerns and would be counter to the principle that statutes should be construed where possible to avoid constitutional questions. See DeBartolo.

### **III. Forcing U S WEST to Cease Its Provision of National Directory Assistance Would Clearly Harm the Public Interest by Significantly Reducing Competition.**

- A. Nonlocal Directory Assistance has traditionally been noncompetitive because consumers are essentially captives of the long distance carriers they have chosen to carry their interLATA calls.
- B. U S WEST’s National Directory Assistance introduced a competitive alternative that is both more convenient and has a lower cost.
- C. Consumers have flocked to the new service because of its clear benefits.
- D. The introduction of national directory assistance in U S WEST’s and BellSouth’s regions has prompted a competitive response from AT&T -- with corresponding benefits for consumers -- that is absent from other regions in which AT&T does not face any competition (see attached press releases). Prohibiting BOCs from offering national directory assistance will not only stop this spread of competition, but will likely result in AT&T pulling back from its foray into competition.



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**Monday September 22 2:50 PM EDT**

## **AT&T Starts Trial Of New Directory Service**

BASKING RIDGE, N.J. - AT&T said today it is beginning a market trial of a new national directory assistance service that allows AT&T customers to get a telephone listing for any place in the United States with one call -- even if they don't have the area code or exact city.

In contrast to the industry trend to provide fully automated directory assistance, the company said its AT&T 00" INFO Service features specially trained information assistants who will stay on the line for the entire call.

They will search for a directory listing with as little information as a partial name and a locality or state and will stay with the customer through the end of the call when they provide the requested information.

During the market trial -- in Seattle, Denver, Phoenix, Minneapolis, and Portland, Ore. -- AT&T is offering the new service at the same 95-cent price that it charges for conventional directory assistance.

AT&T customers in the five test markets can use 00" INFO from their home phones, or when they are away from home, by dialing 1-800-CALL-ATT.

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Wednesday October 22 11:08 AM EDT

## Company Press Release

# AT&T Extends "00" INFO Directory Assistance Service Trial to 23 States, and To All AT&T Calling Card Customers

BASKING RIDGE, N.J.--(BUSINESS WIRE)--Oct. 22, 1997--

--AT&T Brings Back Personal Service to Directory Assistance--

AT&T today announced that it will extend the market trial of its new ``Double-0 Info" national directory assistance service to 23 states and to all AT&T Calling Card customers nationwide. The new AT&T ``00" INFO(SM) Service allows AT&T customers to obtain a telephone listing for any place in the United States with one simple phone call -- even if they don't have the area code or exact city.

The extended ``00" INFO residential service trial begins today for all AT&T customers in the BellSouth and US West service areas. The BellSouth service area covers nine states: Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, Tennessee, and North and South Carolina. The 14 states in the US West service area include Arizona, Colorado, Idaho, Iowa, Minnesota, Montana, Nebraska, New Mexico, Oregon, Utah, Washington, Wyoming, and North and South Dakota.

In addition, all AT&T Calling Card customers can use ``00" INFO by dialing 1 800 CALL ATT (R).

``00" INFO Service is a winner," said Howard McNally, vice president of AT&T Consumer Markets Division. ``Based on overwhelming customer response to the service during the early weeks of the market trial, we're moving quickly to extend the test to more AT&T customers across a broader geographic base."

The service trial began last month in Seattle, Denver, Phoenix, Minneapolis, and Portland, Ore.

AT&T ``00" INFO Service is bringing back the personal touch and providing directory assistance the way customers really want it. In marked contrast to the industry trend to provide fully automated directory assistance, ``00" INFO features personal, courteous, helpful service from specially trained AT&T information assistants who will stay on the line for the entire call.

From the moment they greet the customer by introducing themselves, AT&T assistants are there to help customers simplify their lives, by searching for a directory listing with as little information as a partial name and a locality or state. And AT&T assistants will stay on the line with customers, using enhanced search features to find the listings they want, and even the address and zip code, if that's what they need.

AT&T ``00" INFO takes directory assistance to a higher level of customer service, providing a renewed emphasis on personal service that is supported by several new search capabilities:

-- A new expanded search capability allows AT&T information

assistants to extend a directory search to surrounding communities when they can't find a requested listing in a designated city or town -- even if the caller doesn't know what those communities are.

-- A key word search function allows AT&T information assistants

to search for a business listing when the caller doesn't know the full or exact name of the business. This search will find the listing if the key word appears anywhere in the name.

AT&T's new ``00" INFO Service makes it easier for callers to use directory assistance. They no longer need to remember multiple numbers for directory assistance. And they don't need to know the area code. Customers need only dial one simple number to reach an AT&T information assistant who will help them find telephone listings anywhere in the United States.

During the market trial, AT&T is offering the new AT&T ``00" INFO Service at the same 95-cent price that it charges for conventional directory assistance. With ``00" INFO Service customers can get unlimited listings per call, but pay 95-cents for every two listings.

The AT&T ``00" INFO directory assistance service trial is limited to listings in the United States.

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*Contact:*

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### **Now 411 or 555-1212 Gives Chicago and Detroit Customers Local and Long Distance Numbers!**

Now Ameritech gives Chicago and Detroit customers local and long distance numbers. As a communications leader, Ameritech is proud to offer the first National Directory Assistance service for numbers across the country without having to know area codes.

411 (Chicago) and 1-555-1212 (Detroit) is the only call needed for long distance information. Getting long distance numbers no longer means making two calls -- one to find an area code and another to get the number. Of course, Ameritech still provides local numbers from 411 or 1-555-1212, just as they've provided listings to customers since 1906. Now one simple call does it all for local or national numbers, making it easy to reach family and friends and get business numbers throughout the country.

Ameritech is looking at introducing National Directory Assistance to the entire five-state Ameritech area.



Call 411 or 1-555-1212 for nationwide numbers and get special introductory savings.

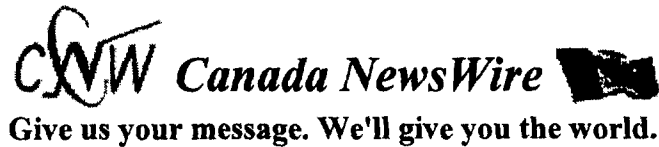
Service not available in all areas.

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**Attention Business Editors:**

## **BELL SOUTH DEBUTS NORTEL'S NATIONAL DA SERVICE IN KENTUCKY**

ATLANTA, July 29 /CNW/ - Nortel (Northern Telecom) announced that its Quest411 National Directory Assistance (NDA) service has been deployed by BellSouth for telephone customers in Kentucky. On July 15, BellSouth introduced the new service in the Bluegrass State.

NDA will enable BellSouth to offer both local and nationwide listings from a single telephone number. When customers in Kentucky call 1+411, they are greeted by BellSouth's Automated Directory Assistance Service (also created by Nortel) and asked for the state and city of the party whose number they need. If the number is located outside the BellSouth local calling area, the call will be routed to an NDA bureau; otherwise the call will go to local directory assistance operators.

Nortel's Quest411 provides BellSouth operators with the ability to search both BellSouth data and a national database of 120 million up-to-date listings from telephone companies and other sources. These listings are compiled into a single database by Metromail Corporation's On-Line Services division.

In addition to simplifying the way its customers call for nationwide listings and providing an accurate and reliable source for those listings, BellSouth will charge less for its NDA than other competing services. NDA calls cost \$.85 and callers may request two national listings per call.

After NDA's premiere in Kentucky, BellSouth plans to make the service available in the company's other eight states by early 1998.

Other customers for Nortel's NDA service include U S WEST in the Denver metropolitan area and Rochester Telephone in New York.

Nortel had 1996 revenues of \$US 12.8 billion and has approximately 68,000 employees worldwide.

BellSouth provides telecommunications services in nine Southeastern states, including Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee. With its headquarters in Atlanta, BellSouth serves more than 22 million local telephone lines and provides local exchange and intraLATA long distance service over one of the most modern telecommunications networks in the world.

-30-

For further information: Peter Janecek, Nortel, (905) 863-6251, [peter\\_janecek\(at\)nortel.com](mailto:peter_janecek@nortel.com); Visit Nortel's web site at <http://www.nortel.com>; Visit BellSouth's web site at <http://www.bellsouth.com>

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It's free 'til January 4, 1998.**

- For all directory assistance, just dial 00 from your home.
- You don't need the exact name, location, or even the area code.
- Also call to get free addresses and zip codes.
- We'll stay with you 'til you get everything you need.

The assistance is back in directory assistance.

Dial **00** today.  
Free all week.

It's all within your reach.



Free offer only for AT&T customers who call only using 800, 800, 300, 300, or 520 area codes.  
\*Initial directory assistance provided 1-31-97. ©1997 AT&T